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IN THE

Supreme Court of the United States

OCTOBER TERM, 1940.

—
NO. 393.
—

THE UNITED STATES, *Petitioner,*

v.

ARTHUR PELZER.
—

Petition for a Writ of Certiorari to the Court of Claims.
—

**RESPONSE OF ARTHUR PELZER TO PETITION FOR
WRIT OF CERTIORARI.**
—

ROBERT A. LITTLETON,
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The conflict relied upon by the petitioner for the issuance of a writ of certiorari relates only to the holding of the Court below that under Section 504(b) of the Revenue Act of 1932 respondent was entitled to an exclusion of \$5,000 for each beneficiary of the trusts in the computation of the net amount of gifts to persons specifically named as being the donees of the gifts.

The position of petitioner is that the trustee named in the trust instrument is the "person" to whom the gifts

were made; and that the trusts are the "donees" of the gift. On that issue there is a conflict with the decision of the Circuit Court of Appeals for the Seventh Circuit in *United States v. Ryerson*, decided July 9th, 1940; but on the issue raised by the second specification of error in the petition for certiorari there is no conflict, and it would appear that the writ granted should be limited to the issue raised by the first specification of error. The petitioner does not give any reason for granting the writ to review the issue raised by the second specification of error; and since that issue is fully covered by the findings of fact by the Court below, it appears to be a question that is not open for review by writ of certiorari.

CONCLUSION.

The conflict relied upon is limited to the question of whether the trust is the "donee", or the "person" to whom an economical or beneficial interest in property is transferred by gift, within the meaning of Section 504(b) of the Revenue Act of 1932. Therefore, we submit that the writ granted should be limited to the issue presented by the first specification of error in the petition.

Respectfully,

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